

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
MAY 02 2005
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

CHOOSE LIFE ILLINOIS, INC., an Illinois)
not-for-profit corporation, RICHARD)
BERGQUIST, SUE BERGQUIST, JAMES)
FINNEGAN, PHYLLIS FINNEGAN, DANIEL)
GURA, SANDRA GURA, BECKY)
MacDOUGALL, VIRGINIA McCASKEY,)
THOMAS MORRISON, BETHANY)
MORRISON, DAN PROFT, RICHARD)
STANEK, JILL STANEK, JOSEPH J.)
WALSH, and CAROL WALSH, individuals,)

*Plaintiffs Demand Trial By
Jury on all Juriable Issues*

CIVIL CASE

NO. 04 C 4316

Plaintiffs,

vs.

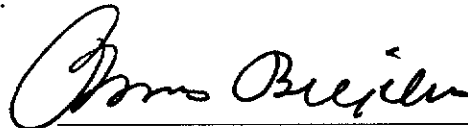
JESSE WHITE, an individual, sued in his)
official capacity as the Secretary of State of the)
State of Illinois,)

Defendant.)

NOTICE OF FILING

To: See Attached Service List

Please take notice that on Monday, May 2, 2005, the undersigned counsel for Plaintiffs, Choose Life Illinois, Inc., an Illinois not-for-profit corporation, et. al., has caused to be filed with the Clerk of the above Court Plaintiffs' Amended Complaint, a copy of which is served on you herewith.



Attorney for Plaintiffs

Of Counsel:
Thomas Brejcha
Tim Kelly
Thomas More Society
29 South LaSalle Street - Suite 440
Chicago, Illinois 60603
Tel. 312-782-1680
Fax 312-782-1887

CERTIFICATE OF SERVICE

Thomas Brejcha hereby certifies that he caused copies of the foregoing Notice of Filing, together with the document referred to therein, to be served on the parties identified in the Service List attached hereto, by the means set forth therein, this 2nd day of May 2005.

A handwritten signature in black ink, appearing to read "Thomas Brejcha", is written over a horizontal line.

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Person Served

Thomas Ioppolo
Assistant Attorney General
100 W. Randolph Street
13th Floor
Chicago, Illinois 60601

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)	
JESSE WHITE, an individual, sued in his)	
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State of Illinois,)	
Defendant.)	

AMENDED COMPLAINT

Plaintiffs, Choose Life Illinois, Inc., an Illinois not-for-profit corporation, Richard and Sue Bergquist, James and Phyllis Finnegan, Daniel and Sandra Gura, Becky MacDougall, Virginia McCaskey, Thomas and Bethany Morrison, Dan Proft, Richard and Jill Stanek, Joseph J. and Carol Walsh, individual residents of the State of Illinois, complain of the defendant, Jesse White, acting in his Official Capacity as the Secretary of State of the State of Illinois, and his employees, agents, successors in office, as follows:

Nature of the Case

1. This is a civil rights action, pursuant to 42 U.S.C. § 1983, by which plaintiffs, an Illinois non-profit corporation as well as Illinois residents committed to foster and promote the cause of adoption, sue to redress and repair the invidiously discriminatory denial of their fundamental right of access to a public forum – the display of their pro-adoption message, “Choose Life,” on automobile specialty license plates for which over 25,000 Illinois residents have signed petitions. Despite its repeated, unjustified, and arbitrary censorship of plaintiffs’ pro-adoption message, the State of Illinois has continued to make such specialty license plates freely accessible and available to other Illinois residents and groups promoting differing political viewpoints.

2. As is more fully hereinafter alleged, the State of Illinois’s discriminatory exclusion of plaintiffs’ political speech from this otherwise generously accessible forum constitutes viewpoint discrimination in violation of plaintiffs’ rights under the First and Fourteenth Amendments to freedom of speech, due process of law and the equal protection of the laws.

3. As is also alleged in greater detail below, the Illinois specialty plate approval system as a whole is unconstitutional, because it vests state officials with unbridled, utterly standardless discretion to approve or reject prospective applicants, such as plaintiffs, on the basis of the political viewpoints they would express. That, too, represents a serious infringement of plaintiffs’ fundamental rights under the First and Fourteenth Amendments to freedom of speech, due process of law and the equal protection of the laws.

4. Plaintiffs request that this Court compel the Illinois Secretary of State to issue a "Choose Life" specialty plate. In the alternative, they request that the Court declare (a) that the Secretary of State's written policy is unconstitutional insofar as it imposes as a precondition to the issuance of any new specialty plate that legislation be passed approving the plate by both chambers of the Illinois legislature and signed by the Governor (without, however, providing any standards for that decision), and/or (b) that the specialty program as a whole is unconstitutional. Plaintiffs also request this Court to enjoin the further operation of the challenged aspect of the Secretary's written policy or of the specialty plate program as a whole.

The Parties

5. Plaintiff, Illinois Choose Life, Inc. ("Illinois Choose Life") is an Illinois not-for-profit corporation, organized for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code and Section 103.05 of the Illinois Not-for-Profit Corporation Act ("the Act"). Illinois Choose Life is in good standing with the State of Illinois. Pursuant to the Act, 805 ILCS 105/103.10(b)(West Supp. 2003), Illinois Choose Life is empowered to sue when one or more of its members would otherwise have standing to sue in his or her own right, and here over 25,000 Illinois residents have signed petitions seeking the approval of a "Choose Life" specialty license plate in Illinois, many thousands of whom are committed to buy said license plate if ever approved and are aggrieved by its arbitrary and repeated disapproval. Also, the purpose of this lawsuit is clearly germane to the stated purposes of Illinois Choose Life, which are *inter alia* to "promote within the State of Illinois the adoption of children, to increase public awareness about the importance of adoption, to educate the public

concerning the adoption of children,” etc. Nor is the participation of individual members of Illinois Choose Life required either for the prosecution of this lawsuit or for the relief requested herein. For these same reasons, the plaintiff, Illinois Choose Life, also has standing to sue for its members herein as a matter of federal constitutional law, as the defendant has been joined in an actual “case or controversy,” pursuant to Article III of the U.S. Constitution.

6. In any event, several members of Illinois Choose Life who are personally aggrieved by reason of the defendant’s vague, subjective, and viewpoint-discriminatory enforcement of Illinois’s flawed statutory scheme for the issuance of specialty auto license plates have elected to press claims herein, as individuals. They, too, must be granted to have standing to sue herein. The first of these Plaintiffs, Richard and Sue Bergquist, are married and reside in Naperville, Illinois. They have eleven children, nine of whom are adopted, and six of whom have special needs. The Bergquists are fervent advocates of adoption. They are aggrieved by the State of Illinois’s failure to approve a “Choose Life” license plate, promoting adoption, which they would have purchased but for the plate’s having been disapproved. The Bergquists are both directors of Illinois Choose Life.

7. Plaintiffs, James (“Jim”) and Phyllis Finnegan, also are a married couple residing in Barrington, Illinois. Jim Finnegan, a retired businessman, is president and a director of Illinois Choose Life. The Finnegans, who have seven children and twenty grandchildren, also have had family experiences with adoption, for which they too are fervent advocates. As Illinois automobile owners, they also have been aggrieved by the failure of the State of Illinois to approve the issuance of a specialty “Choose Life” license

plate, which would both promote and generate revenue for the cause of adoption in Illinois, and which they would have purchased, had it been approved and offered for sale.

8. Daniel ("Dan") Gura, a real estate appraiser, and Sandra ("Sandy") Gura, his wife and a flight attendant, reside in Lake Zurich, Illinois. Married for nearly 11 years, the Guras have four children, two of whom are adopted. They too are strong advocates for adoption, and they would have purchased a "Choose Life" specialty license plate had it been approved and offered for sale by defendant, the Secretary of State for Illinois.

9. Becky MacDougall is one of the key personnel at Sunny Ridge Family Center in Wheaton, Illinois, an adoption aid organization. Ms. MacDougall, an adoptive mother herself, has been a tireless and outspoken advocate for adoption. She would have purchased a "Choose Life" license plate had it been approved and offered for sale in Illinois.

10. Virginia McCaskey, of the Chicago Bears, a resident of Des Plaines, Illinois, has urged that the wonderful promotion of adoption should not be made into a contentious political issue, as the "Choose Life" specialty license plates can be important in aiding the providers of adoption services. Virginia is a director of Illinois Choose Life.

11. Thomas ("Tom") Morrison and Bethany Morrison, his wife, were recently married and reside in Palatine, Illinois. Tom teaches at the Christian Liberty Academy in Arlington Heights, Illinois. Together, the Morrisons have crusaded ardently for the cause of adoption. As Illinois automobile owners, the Morrisons would have purchased a "Choose Life" specialty plate, had it been approved and offered for sale in Illinois.

12. Dan Proft is president of Illinois Leader Media Company and publisher of the *Illinois Leader*. He has been active in several Illinois political campaigns and has provided media relations and political guidance to Illinois Choose Life. The cause of adoption is dear to him, as he was adopted. Dan would have purchased an Illinois "Choose Life" specialty plate, had it been approved and offered for sale.

13. Richard and Jill Stanek, a married couple, reside in Mokena, Illinois. Jill Stanek's revelations about Christ Hospital's leaving infants, targeted for abortion who were nonetheless born alive, to die without medical care, won national attention and sparked the passage of the federal Infants Born Alive Protection Act two years ago. She has spoken out strongly and eloquently on behalf of adoption and, more specifically, in favor of Illinois's approval of a "Choose Life" specialty license plate. The Staneks have been aggrieved by the State's failure and refusal to approve such a plate and offer it for sale; had it been approved and offered, they would have bought such a specialty plate for a family automobile.

14. Joseph J. ("Joe") and Carol Walsh have been married almost 35 years and reside in Libertyville, Illinois. They have four living children and six grandchildren. Carol is president and Joe is director of Lake County Right to Life. Both are directors of Aid for Women of Northern Lake County, a crisis pregnancy center in Waukegan which opened its doors back in April, 1983. The Walshes have taken many people into their home in order to help them choose life, and they have advocated powerfully for Illinois's approval of a "Choose Life" specialty license plate, whose sale – to at least a very substantial portion of the more than 25,000 signatories (so far!) of a petition for approval

of such a special license plate – would be likely to generate substantial revenue, for the benefit of both the State of Illinois and the cause of adoption.

15. Defendant, Jesse White, sued herein only in his Official Capacity as the Secretary of State of the State of Illinois (“the Secretary” or “Secretary White”), is charged with the statutory duty of issuing vehicle license plates and administering the special license plate programs in the State of Illinois.

Jurisdiction and Venue

16. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4).

17. Plaintiffs’ claim for declaratory and injunctive relief is authorized by 28 U.S.C. §§ 2201 and 2202; by Rules 57 and 65 of the Federal Rules of Civil Procedure; and by the general equitable powers of this Court.

18. Venue is properly laid in this District pursuant to 28 U.S.C. § 1391(b).

Introduction

19. Motor vehicles registered in the State of Illinois generally need to bear license plates issued by the Illinois Secretary of State’s Vehicle Services Department (“VSD”) under the oversight and direction of the defendant, Jesse White, acting in his Official Capacity as Secretary of State of the State of Illinois. When vehicle owners request license plates from the VSD, the VSD typically gives owners a choice of license plates. Either the owner can request standard license plates or he or she can pay extra and ask to purchase a specialty license plate (“specialty plate”). Such specialty plates bear a medley of various political and/or special interest messages which the vehicle owner may choose to purchase and display on his or her vehicle. The proceeds for

purchase of these specialty license plates may inure to the benefit of the various special interest groups which sponsored each such specialty plate. The VSD advertises the availability of specialty plates through a variety of means, including, *inter alia*, through color flyers. A true and correct copy of pp. 1 through 8 inclusive of one such flyer is attached hereto as Exhibit A.

20. The statutory requirements for issuance of special plates in Illinois are prescribed at 625 ILCS 5/3-600. The Secretary of State is there barred from issuing a series of special plates “unless applications, as prescribed by the Secretary, have been received for 10,000 plates of that series; except that the Secretary of State may prescribe some other required number of applications if that number is sufficient to pay for the total cost of designing, manufacturing and issuing the special license plate.” No other prerequisites (apart from notification of law enforcement on approval of any new plate) are set forth for the Secretary’s approval and issuance of any new specialty license plate. Nevertheless, defendant White has issued a nine-point written policy relating to “New Plate Categories,” a true copy of which is also attached hereto as Exhibit B. Pursuant to this policy, while defendant White reduced the requisite number of requests or applications for a new plate from the statutory target of 10,000 to an indefinite number “approach[ing] the 850 level (somewhere between 750 & 850 ...),” he also imposed an entirely new and independent requirement, that is nowhere required or even suggested in the governing statutory provision (*supra*). Thus defendant White requires that “[l]egislation must be introduced (by a legislator, either in the Senate or the House), passed by both chambers, and signed into law by the Governor. The Secretary can not arbitrarily begin issuing a new plate category.” (Exhibit B, ¶1).

21. The Secretary's requirement for prior legislative approval fixes no standards, limits, or criteria by which access to a new specialty license plate will be regulated or determined. Nor is there any transparency to this procedure, which provides for no findings, nor explanation, nor justification, much less for any judicial review in the event that efforts to secure legislative approval may fail. Defendant White determines which privately sponsored expressions and viewpoints may be expressed or proclaimed on Illinois's specialty license plates based only on an "up" or "down" unexplained, arbitrary vote in the General Assembly – that is, if a proposed specialty plate should even proceed far enough through the legislative process to reach the voting stage. Under the current system, defendant White will allow the creation and distribution of a particular specialty plate only if the Illinois General Assembly agrees with the expression and viewpoint being proposed. Defendant White will not allow private groups and individuals interested in expressing views on their license plates to do so if the General Assembly should not actually pass a bill approving of the expression of such views.

22. The Secretary and General Assembly have refused to issue a "Choose Life" specialty plate despite the collection of approximately 25,000 signatures. At the same time, the Secretary has issued specialty plates bearing messages that are more to the State of Illinois's political liking. Thus, the Secretary and General Assembly have operated the specialty plate program in viewpoint-discriminatory manner that violates plaintiffs' free speech, equal protection, and due process rights.

23. The Secretary and General Assembly have also operated the program in a manner that – aside from a required number of signatures – imposes no objective standards on the program administrators to limit their discretion in approving or rejecting

applications. That lack of standards opens the door to content- and viewpoint-based censorship of unpopular or minority views that fall short of winning decisive majority support, and it therefore renders the program facially unconstitutional.

Narrative Facts

24. Defendant White oversees, implements, administers, and executes Illinois's specialty license plate statutory scheme by which private, non-profit organizations can seek to have special designs or messages printed on license plates that are then sold to the public at higher prices than ordinary or standardized license plates. There are currently some 60 specialty license plates that exist in Illinois, at least 27 of which have been privately "sponsored" by special interest or advocacy groups (numbers 1 through 27):

- (1) Korean War Veteran License Plates, 625 ILCS 5/3-626;
- (2) Environmental License Plate, 625 ILCS 5/3-627;
- (3) Prevent Violence License Plate, 625 ILCS 5/3-630;
- (4) Sportsmen Series License Plate, 625 ILCS 5/3-631;
- (5) Wildlife Prairie Park License Plate, 625 ILCS 5/3-632;
- (6) Illinois Firefighters' License Plate, 625 ILCS 5/3-634;
- (7) Master Mason Plates, 625 ILCS 5/3-635;
- (8) Knights of Columbus Plates, 625 ILCS 5/3-636;
- (9) DARE License Plates, 625 ILCS 5/3-637;
- (10) Illinois and Michigan Canal License Plates, 625 ILCS 5/3-640;
- (11) Mammogram License Plates, 625 ILCS 5/3-643;
- (12) Police Memorial Committee License Plates, 625 ILCS 5/3-644;

- (13) Organ Donor Awareness License Plates, 625 ILCS 5/3-646;
- (14) Education License Plates, 625 ILCS 5/3-648;
- (15) Hospice License Plates, 625 ILCS 5/3-648;
- (16) U.S. Marine Corps License Plates, 625 ILCS 5/3-651;
- (17) Pet Friendly License Plates, 625 ILCS 5/3-653;
- (18) Lewis and Clark Bicentennial License Plates, 625 ILCS 5/3-653;
- (19) September 11th "America Remembers" License Plates, 625 ILCS 5/3-653;
- (20) Illinois Route 66 License Plates, 625 ILCS 5/3-653;
- (21) Illinois Public Broadcasting System Stations License Plates, 625 ILCS 5/3-654;
- (22) Pan Hellenic License Plates, 625 ILCS 5/3-654;
- (23) Collegiate License Plates, 625 ILCS 5/3-629;
- (24) Chicago and Northeast Illinois District Council of Carpenters License Plates, 625 ILCS 5/3-652;
- (25) Park District Youth Program License Plates, 625 ILCS 5/3-654;
- (26) Professional Sports Teams License Plates, 625 ILCS 5/3-654;
- (27) Stop Neuroblastoma License Plates, 625 ILCS 5/3-654;
- (28) Members of the General Assembly, 625 ILCS 5/3-606;
- (29) Retired Members of the General Assembly, 625 ILCS 5/3-606.1;
- (30) Amateur Radio Operators, 625 ILCS 5/3-607;
- (31) Disabled Veterans, 625 ILCS 5/3-609;
- (32) Congressional Medal of Honor Recipients, 625 ILCS 5/3-609.1;
- (33) Members of Congress, 625 ILCS 5/3-610;

- (34) Retired Members of the Illinois Congressional Delegation, 625 ILCS 5/3-610.1;
- (35) Repossessor, 625 ILCS 5/3-612;
- (36) Special Inaugural License Plates, 625 ILCS 5/3-613;
- (37) Honorary Consular License Plates, 625 ILCS 5/3-615;
- (38) License Plates for Disabled Individuals, 625 ILCS 5/3-616;
- (39) Drivers Education, 625 ILCS 5/3-617;
- (40) Charitable Vehicle, 625 ILCS 5/3-618;
- (41) Ex-Prisoners of War, 625 ILCS 5/3-620;
- (42) Illinois National Guard, 625 ILCS 5/3-621;
- (43) Members of Armed Forces Reserves, 625 ILCS 5/3-622;
- (44) Purple Heart, 625 ILCS 5/3-623;
- (45) Retired Armed Forces, 625 ILCS 5/3-624;
- (46) Pearl Harbor Survivor, 625 ILCS 5/3-625;
- (47) Bronze Star License Plates, 625 ILCS 5/3-628;
- (48) Universal Charitable Organization License Plate, 625 ILCS 5/3-633;
- (49) Universal U.S. Veteran License Plates, 625 ILCS 5/3-638;
- (50) Special Registration Plates for a President of a Village or Incorporated Town or Mayor, 625 ILCS 5/3-639;
- (51) Deceased Police Officer or Firefighter License Plates, 625 ILCS 5/3-641;
- (52) Silver Star License Plates, 625 ILCS 5/3-642;
- (53) Vietnam Veteran License Plates, 625 ILCS 5/3-645;
- (54) World War II Veteran License Plates, 625 ILCS 5/3-647;

(55) West Point Bicentennial License Plates, 625 ILCS 5/3-649;

(56) Army Combat Veteran License Plates, 625 ILCS 5/3-650;

(57) Antique Vehicle, 625 ILCS 5/3-804;

(58) Custom Vehicle Plates, 625 ILCS 5/3-804.1;

(59) Street Rod Plates, 625 ILCS 5/3-804.2;

(60) Gold Star Plates, 625 ILCS 5/3-806.4;

(61) Personalized Plates, 625 ILCS 5/3-806.5.

25. One purpose of the special interest license plate program is to produce additional revenue in the millions of dollars for the State of Illinois and/or defendant White's VSD by making special license plates available for purchase at higher prices than regular license plates. In addition, for those license plates that are privately sponsored (plates 1 through 27 as listed in the preceding paragraph), the sponsoring organization benefits by (a) sharing in the State's profits from the sale; (b) gaining advertising and marketing exposure that is generated by the appearance on the plate of recognizable logos, pictures, or messages; and (c) providing those with a similar viewpoint an outlet (i.e., their license plate) to express their views on the topic in question.

26. Under the state scheme as administered by defendant White, a non-profit organization interested in creating a specialty license plate must find an Illinois legislator to sponsor legislation authorizing the issuance of the specialty plate ("Enabling Legislation"). Such Enabling Legislation generally provides that a portion of proceeds from the purchase of the specialty plates will be deposited in a special fund in the State treasury to be distributed, subject to appropriation by the Illinois General Assembly and

approval by the Secretary of State, to support the designated special interest. The only exception is that the Secretary of State may, at his discretion, issue specialty plates for any public or degree-granting, not-for-profit private college or university located in Illinois (625 ILCS 5/3-629).

27. If and only if Enabling Legislation is enacted and the number of requests for the specialty license plate approaches 850 will defendant White allow the organization in question to work on proposed license plate designs in concert with the Communications Department of VSD. Such a submission must generally follow the strictures of 625 ILCS 5/3-412 for the plate's physical parameters. Enabling Legislation generally stipulates that the unique design and color of the specialty plates will ultimately be entirely within the Secretary's discretion. Once approved by defendant White, the specialty plates become available to the public, and consumers typically pay anywhere from \$15 and \$45 above standard registration fees to obtain a specialty plate from the VSD.

28. During the 2001-2002 legislative session, the Illinois General Assembly enacted, and the Governor signed into law, Enabling Legislation for specialty license plates to raise money and awareness for social causes including, *inter alia*, education, pet overpopulation, park district youth programs, neuroblastoma research and prevention, and Pan-Hellenic charities. Such Enabling Legislation took between 5 and 12 months from the time of introduction in either body of the Illinois General Assembly to enactment and final approval by the Governor.

29. In a good faith attempt to follow the specialty license plate scheme administered by defendant White, in the 2001-02 legislative session Plaintiff Choose Life

Illinois requested that then-Illinois State Senator Patrick O'Malley and Illinois State Representative Dan Brady sponsor Enabling Legislation for the purpose of making available to vehicle owners specialty license plates which bear the phrase "Choose Life." These lawmakers agreed and introduced several "Choose Life" specialty license plate bills in the 2001-2002 legislative session, including SB 2426 and HB 3374.

30. In the 2003-2004 legislative session plaintiff, Choose Life Illinois, again requested sponsorship of Enabling Legislation for the purpose of making available to vehicle owners specialty license plates which bear the phrase "Choose Life." Illinois State Senator Kirk Dillard and Illinois State Representative Randall Hultgren agreed to sponsor such Enabling Legislation and introduced several "Choose Life" specialty license plate bills in the 2003-2004 legislative session, including SB 1502 and HB 0010. But during this latest session, the General Assembly has taken no further action to approve Enabling Legislation for a specialty license plate bearing the phrase "Choose Life."

31. Only if these bills had been enacted by the Illinois General Assembly would defendant White have approved the "Choose Life" specialty license plates and could the proceeds from the DVS's sale of the "Choose Life" license plates be distributed (in part) to non-governmental, not-for-profit agencies throughout Illinois which provide counseling and other services to meet the needs of pregnant women who are committed to placing their newborn children for adoption.

32. Plaintiff Choose Life Illinois as a non-profit organization manifestly meets the requirements for distribution of funds and would have received funds from the sale of "Choose Life" specialty plates, if they had been approved. At the time of the bills'

introduction, Choose Life Illinois had already received signed petitions requesting “Choose Life” plates from over 25,000 Illinois residents. All the viewpoint-neutral, objective tests for approval of an Illinois specialty license plate were amply met by plaintiffs.

33. Each and every one of the bills proffered by State Senator O’Malley and State Representative Brady in the 2001-2002 legislative session (SB 2426 and HB 3374), and State Senator Dillard and State Representative Hultgren in the 2003-2004 legislative session (SB 1502 and HB 0010), failed to pass, amidst many expressions of hostility toward the message “Choose Life,” whereas, as hereinabove alleged, specialty plates *were* approved for other advocacy groups and their various causes, including pet overpopulation and pan-Hellenic charities.

COUNT I

The Illinois Specialty Plate Application Process is Unconstitutional As Applied

34. Plaintiffs hereby repeat and reallege each and every allegation contained in all preceding paragraphs as if fully set forth herein.

35. Defendant’s only written requirements for issuing a new specialty plate are that an applicant collect a list “approach[ing] the 850 level” of individuals who would purchase the plate if approved, and that the General Assembly enact (and the Governor sign into law) a bill authorizing the new plate.

36. Despite plaintiffs’ collection of more than 25,000 signatures, Defendant White and the General Assembly repeatedly have refused to authorize a “Choose Life” specialty plate.

37. While the “Choose Life” application was pending before the Assembly, the Assembly approved several other specialty plates, including ones relating to education, pet overpopulation, park district youth programs, neuroblastoma research and prevention, and Pan-Hellenic charities.

38. On information and belief, the “Choose Life” application is the only application ever to have been rejected by the Secretary and General Assembly after having obtained the requisite number of signatures.

39. On information and belief, the State of Illinois’s refusal to issue a “Choose Life” specialty plate is due simply to its disagreement with the political position the plate would support. Numerous other plates – including those supporting hunting, military affairs, organ donation, and the prevention of violence – are equally political, yet they were readily issued due to their viewpoints on the issues in question.

40. The State of Illinois’s viewpoint-based discrimination renders the specialty plate approval scheme unconstitutional as applied, as it deprives plaintiffs of their First and Fourteenth Amendment rights to freedom of speech, equal protection of law, and due process.

41. Plaintiffs therefore request that this Court issue an order compelling Defendant White to issue a “Choose Life” specialty plate.

COUNT II
The Illinois Specialty Plate Application System is Facially Unconstitutional

42. Plaintiffs hereby repeat and reallege each and every allegation contained in all preceding paragraphs as if fully set forth herein.

43. The entire process for approving special license plates in Illinois consists of a standardless, unguided, discretionary system enforced and executed by defendant White in which defendant White authorizes and allows the issuance of specialty plates bearing particular political messages only if the viewpoint expressed is deemed acceptable by a majority of legislators in the General Assembly, and the Governor, as shown by the enactment of Enabling Legislation.

44. This invidious, discriminatory process, as enforced and carried out by defendant White to bar and ban plaintiffs under color of Illinois law from access to the public forum to express their political message in favor of adoption, violates the free speech guarantee found in the First Amendment to the United States Constitution, the Equal Protection guarantee found in the Fourteenth Amendment to the United States Constitution, as well as 42 U.S.C. § 1983.

45. Plaintiffs request the issuance of a declaratory judgment finding unconstitutional this systematic resort to an invidious, discriminatory procedure for limiting access to a public forum for the expression of political viewpoints.

46. To repair and remedy this constitutionally defective system for censorship and suppression of political messages, plaintiffs also seek issuance of a temporary restraining order, preliminary injunction, and permanent injunction enjoining the defendant, and all those in active concert or participation with him, from awarding, approving, creating, or distributing further any specialty license plates under the current unlawful scheme. In the alternative, plaintiffs seek a permanent injunction barring the Secretary from applying the portion of his written policy that requires prior approval by the General Assembly and Governor before a specialty plate is approved and issued.

Further, plaintiffs seek equitable relief barring the renewal or extension of previously issued specialty plates, so as to avert the perpetuation of invidious past discrimination in favor of preferred political viewpoints and in derogation of plaintiffs' fundamental rights.

47. Plaintiffs have been damaged by these deprivations of their fundamental constitutional rights. But they seek no monetary relief or damages, but only prospective injunctive relief in order to halt, cure and repair the serious legal flaws in the dispensation of Illinois's specialty license plates of which they complain in this lawsuit.

WHEREFORE, Plaintiffs pray for the following relief:

A. Issuance of an order compelling defendant White to approve and issue a "Choose Life" specialty plate;

B. In the alternative,

(1) Issuance of a declaratory judgment declaring that defendant White's process, scheme and system for awarding, approving, creating, and distributing specialty license plates violates the First and Fourteenth Amendments to the United States Constitution, and the Civil Rights Act, 42 U.S.C. §1983;

(2) Issuance of a temporary restraining order, preliminary injunction, and permanent injunction, enjoining and restraining defendant Jesse White, acting in his Official Capacity as Illinois Secretary of State, from enforcing the portion of his written policy that requires prior approval by the General Assembly and Governor before a specialty plate is approved and issued;

(3) Issuance of a temporary restraining order, preliminary injunction, and permanent injunction, enjoining and restraining defendant Jesse White, acting in his Official Capacity as Illinois Secretary of State, and all those in active

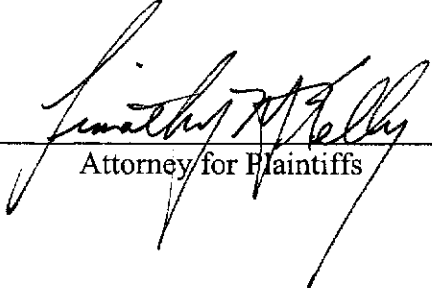
concert or participation with him, from awarding, approving, creating, distributing any new specialty license plates absent a viewpoint-neutral and content-neutral set of guides, criteria, and standards for obtaining specialty plates, administered in an objective, neutral fashion, and in which individual decisions would be explained in writing, based on objective grounds rationally related to legitimate governmental concerns, and subject to appropriate judicial review;

(4) Issuance of similar equitable relief tailored to prevent the renewal or extension of existing specialty license plates, expressing a favored political viewpoint, as approved by the current constitutionally tainted, discriminatory system;

C. An award of attorneys fees, costs, and expenses, pursuant to 42 U.S.C. § 1988, and any other applicable law; and

D. Such other relief as the Court may deem just and proper upon these premises in accordance with law.

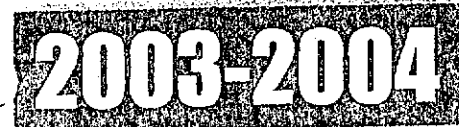
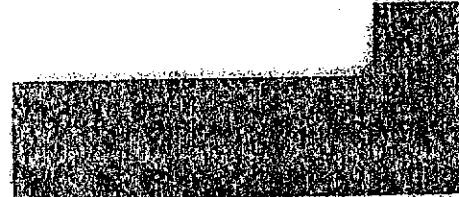
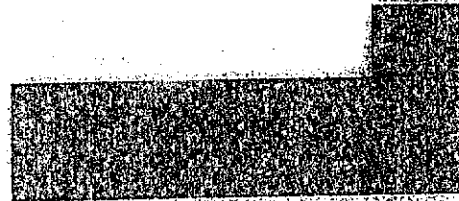
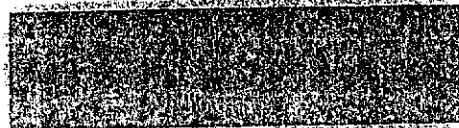
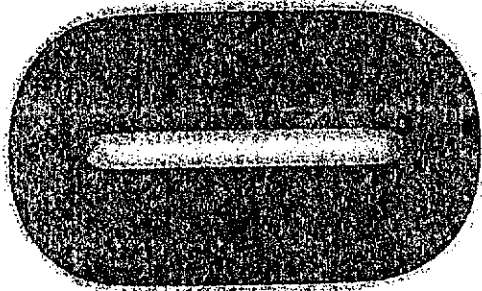
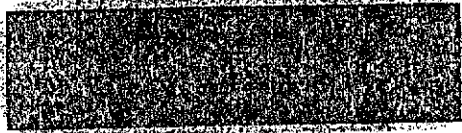
Of Counsel:
Thomas Brejcha
Timothy M. Kelly
Thomas More Society
29 South LaSalle Street - Suite 440
Chicago, Illinois 60603
Tel. 312-782-1680
Fax 312-782-1887



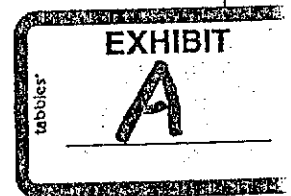
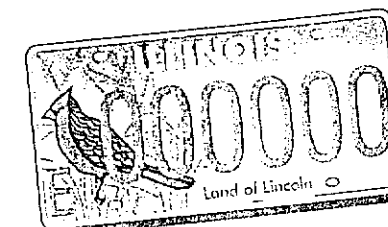
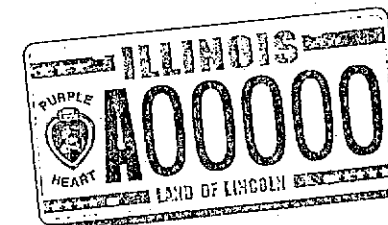
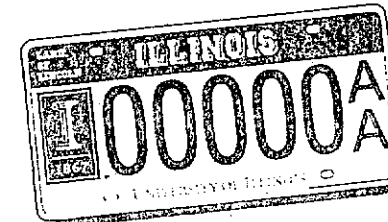
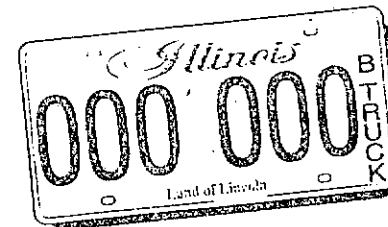
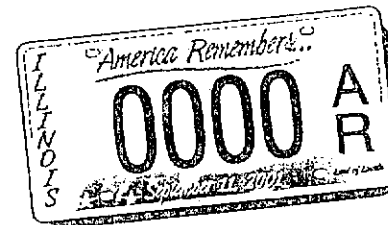
Attorney for Plaintiffs

Exhibit

A



LICENSE PLATE GUIDE



Jesse White • Secretary of State

Jesse White ★ Secretary of State



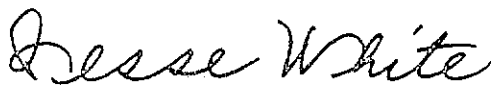
I am pleased to announce that, as promised, my office is well on the way to replating the more than 9 million vehicles on Illinois highways, from passenger cars to recreational vehicles.

Our main goal has always been to make license plates that are attractive but easily readable for law enforcement officials. Not only have we redesigned passenger plates for the first time in nearly 3 decades, but we now have new designs of Military, Sporting Series and Collegiate Plates. Newly-

designed Mammogram, Wildlife Prairie Park, Master Mason, Illinois/Michigan Canal, Ham Radio and Hearing Impaired specialty plates also are being replated. Motorists who have not received their new-design plates for these categories should call my office at 217-558-0515.

B-truck, Persons with Disability, Environmental, Prevent Violence, Firefighter Memorial, TA Trailer, Motorcycle and RV/RT license plates are also in the process of being replated. Motorists with these license plates will receive renewal notices in the mail. They must then renew by phone, online or at a Driver Services facility to receive their new-design plates. My continued appreciation goes out to all those dealers, remitters, currency exchanges, banks and facility personnel who have helped make this replating effort a success.

This new License Plate Guide includes information about several new specialty plates available to Illinois motorists. The Education Plate helps provide scholarships for college students pursuing teacher certifications in the state. A Pet Friendly Plate generates money to help prevent pet overpopulation. And the new Park District Plate provides funds for innovative after-school programs for our youth. For more information on these and other license plates, visit www.cyberdriveillinois.com.



Jesse White
Secretary of State

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SECRETARY OF STATE DRIVER SERVICES FACILITIES**SECRETARY OF STATE VEHICLE SERVICES FACILITIES**

The Office of the Secretary of State issues various license plates that require multi-year, staggered registration. These plates are issued to First Division (i.e., passenger) and Second Division vehicles weighing 8,000 pounds or less (i.e., trucks not used to carry freight or for transporting more than 10 persons). Each of these license plates are six inches in height by twelve inches in length. Illinois license plate specifications require the plates to be manufactured with reflective sheeting for night-time legibility. These license plates have numerals and/or alpha characters 2 3/4" high, helping meet the legal requirement that they be plainly readable from a distance of 100 feet during the day.

NOTE: For first-time purchasers, both plates and a sticker are issued. Each subsequent year, a renewal sticker is issued.

PASSENGER LICENSE PLATES

Passenger license plates are issued to most private passenger, fleet, leased and rental vehicles. Standard license plates are issued with randomly assigned letter and/or number combinations with the letters appearing first. Replacement license plates are issued for vehicles when the original license plates are lost, stolen or destroyed.

Vanity license plates are available for passenger vehicles upon written request. Vanity license plates have a maximum of seven letters only, or 1, 2 or 3 numbers only. Personalized license plates also are available.

Personalized license plates have a maximum of seven characters, with at least one number following the letters.

Deaf or Hard of Hearing license plates

Deaf or Hard of Hearing license plates are issued to a deaf or hard of hearing person with a Type 4 hearing disability or as provided under Section 4A of the Illinois Identification Card Act. The plate has an "H" prefix (625 ILCS 5/3-616).

Ham Radio Operator license plates

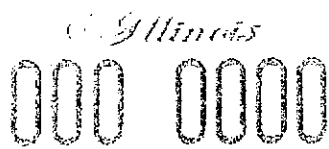
Ham Radio Operator license plates are available for amateur radio operators. The license plate number is the call number assigned by the Federal Communications Commission. For law enforcement purposes, the number zero (0) is the designate.

B-TRUCK LICENSE PLATES

B-truck license plates are issued to Second Division vehicles weighing 8,000 pounds or less. New design B-truck license plates have blue characters on a white background. B-truck plates will be replated over the 12 registration months of 2003. Old B-truck license plates are valid through 12/31/03.

The following examples represent various B-truck license plates:

- Two alpha suffix plates (e.g. 0000 BA).
- One alpha suffix plates (e.g. 00000 C).
- Numeric plate of up to six digits (e.g. 000 000).
- Vanity or personalized license plates for B-trucks are available upon written request.



Passenger license plate



Passenger license plate (vanity)



Passenger license plate (personalized)



Deaf/Hard of Hearing license plate



Ham Radio license plate



B-truck license plate

SPECIALTY LICENSE PLATES

Additional fees are charged for most specialty license plates. Specialty license plates may be registered to passenger vehicles, B-trucks and vans weighing 8,000 pounds or less.

America Remembers license plates

America Remembers license plates, honoring those killed in the Sept. 11, 2001 terrorist attacks, are available to any Illinois resident.

Education license plates

Education license plates are available to any Illinois resident.

Environmental license plates

Environmental license plates are available to any Illinois resident (625 ILCS 5/3-627). Vanity and Personalized Environmental license plates are available for additional fees (625 ILCS 5/3-627).

Firefighter Memorial license plates

Firefighter Memorial license plates are available to any Illinois resident (625 ILCS 5/3-634). Vanity and Personalized Firefighter Memorial license plates are available for additional fees.

Illinois/Michigan Canal license plates

Illinois/Michigan Canal license plates are available to any Illinois resident (625 ILCS 5/3-640).

Mammogram license plates

Mammogram license plates are available to Illinois residents who wish to support the Susan G. Komen Breast Cancer Foundation Fund. (625 ILCS 5/3-643).

Master Mason license plates

Master Mason license plates are available to Illinois residents who are members in good standing of a recognized Masonic organization (625 ILCS 5/3-635). Vanity and Personalized Master Mason license plates are available for additional fees.

Mayor/Village President license plates

Mayor/Village President license plates are available to any current mayor or president of a village or incorporated town (625 ILCS 5/3-639).

Organ Donor license plates

Organ Donor license plates are available to any Illinois resident (625 ILCS 5/3-646). Vanity and Personalized Organ Donor license plates are available for additional fees (625 ILCS 5/3-646).

Park District Youth Program license plates

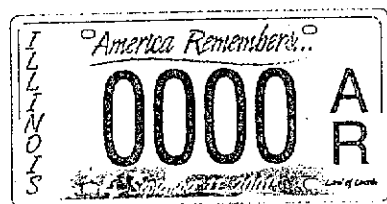
Park District Youth Program license plates are available to any Illinois resident.

Pet Friendly license plates

Pet Friendly license plates are available to any Illinois resident.

Police Memorial license plates

Police Memorial license plates are available to any Illinois resident. (625 ILCS 5/3-644)



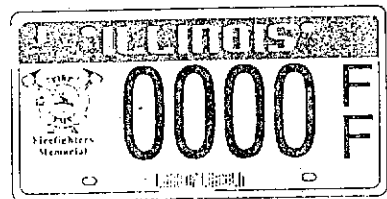
America Remembers license plate



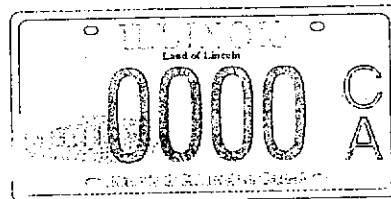
Education license plate



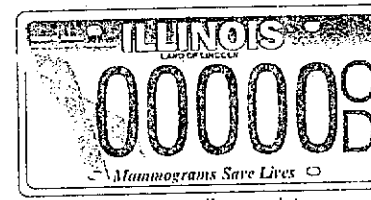
Environmental license plate



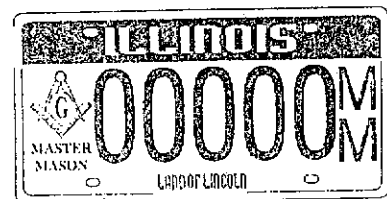
Firefighter Memorial license plate



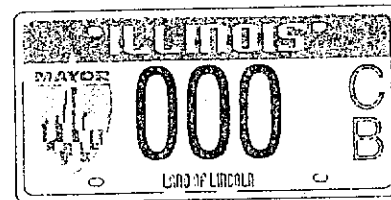
Illinois/Michigan Canal license plate



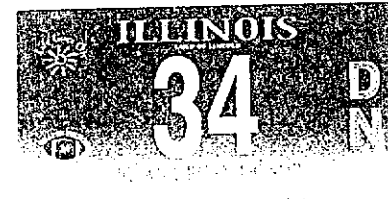
Mammogram license plate



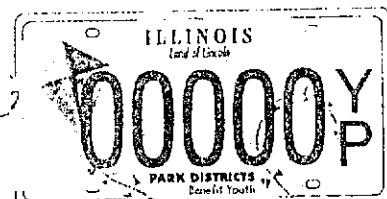
Master Mason license plate



Mayor/Village President license plate



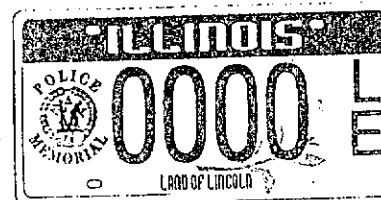
Organ Donor license plate



Park District Youth Program license plate



Pet Friendly license plate



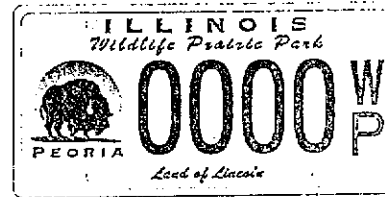
Police Memorial license plate

Prevent Violence license plates

Prevent Violence license plates are available to any Illinois resident (625 ILCS 5/3-630). Vanity and Personalized Prevent Violence license plates are available for additional fees (625 ILCS 5/3-630).



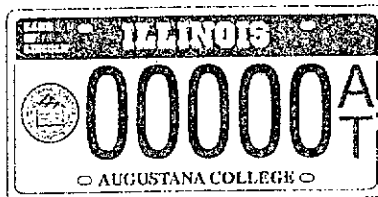
Prevent Violence license plate



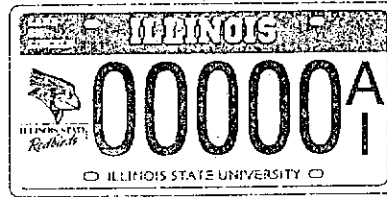
Wildlife Prairie Park license plate

Collegiate license plates

Collegiate license plates are available to any Illinois resident (625 ILCS 5/3-629). Collegiate license plates are available for the following institutions: Augustana College, Bradley University, Concordia University, DePaul University, Eastern Illinois University, Illinois State University, Loyola University Chicago, Malcolm X College, Millikin University, Northern Illinois University, Northwestern University, University of Illinois at Urbana-Champaign, University of Illinois at Chicago, University of Illinois at Springfield and Western Illinois University.



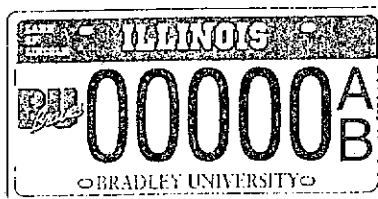
Augustana College license plate



Illinois State University license plate



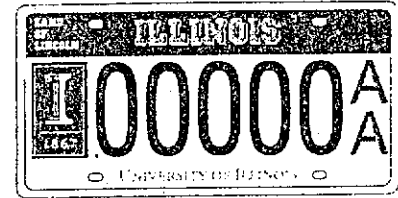
Northwestern University license plate



Bradley University license plate



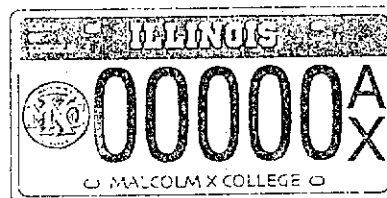
Loyola University license plate



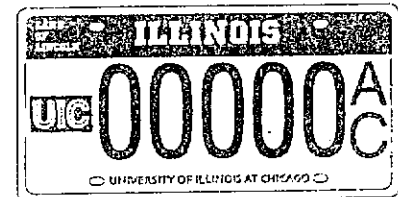
University of Illinois license plate



Concordia University license plate



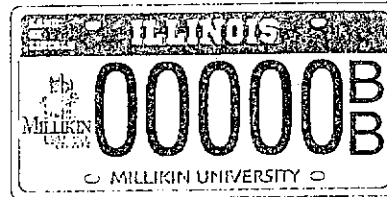
Malcolm X College license plate



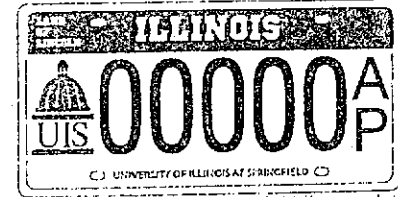
University of Illinois at Chicago license plate



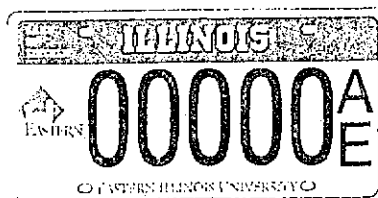
DePaul University license plate



Millikin University license plate



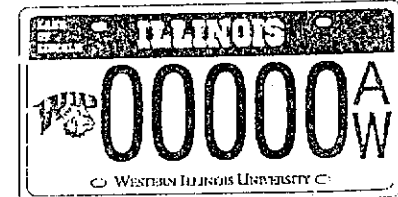
University of Illinois at Springfield license plate



Eastern Illinois University license plate



Northern Illinois University license plate



Western Illinois University license plate

Military license plates

Military license plates may be displayed on passenger cars, trucks, motorcycles (except Gold Star license plates) and vans weighing 8,000 pounds or less. Korean War Veteran plates may also be registered to recreational vehicles and recreational trailers.

Armed Forces Reserve license plates

Armed Forces Reserve license plates are available to members, former members or surviving spouses of the U.S. Armed Forces Reserves who reside in Illinois (625 ILCS 5/3-622).

Bronze Star license plates

Bronze Star license plates are available to those who have been awarded the military's Bronze Star medal or Combat Infantry Badge (625 ILCS 5/3-628).

Congressional Medal of Honor license plates

Congressional Medal of Honor license plates are available to recipients of the Congressional Medal of Honor (625 ILCS 5/3-609.1).

Disabled Veteran license plates

Disabled Veteran license plates are available to any U.S. Armed Forces veteran who has a 100 percent military disability or is eligible to receive a federal grant toward the purchase of a vehicle. Vehicles displaying these plates may park in spaces reserved for persons with disabilities. Parking meter fees and time limitations are waived, except in areas with designated parking of 30 minutes or less. (625 ILCS 5/3-609)

Ex-prisoner of War (EX-POW) license plates

Ex-prisoner of War (EX-POW) license plates may be issued to any U.S. citizen who was a prisoner of war and is a present or former member of the U.S. Armed Forces or any

of its allies. The name of the ex-prisoner of war must appear as owner or co-owner on both the title and registration applications. The widowed spouse of an ex-prisoner of war may apply for these plates, provided the spouse was married to the ex-prisoner of war at the time of death and is single at the time of application. (625 ILCS 5/3-620)

Gold Star license plates

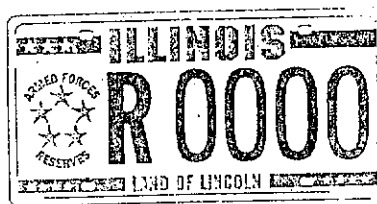
Gold Star license plates are available to a surviving spouse, or if no spouse, the surviving parent, or if no parent, the surviving sibling of the Gold Star medal recipient. The deceased must have served in the U.S. Armed Forces and lost his/her life while in service, whether in peace-time or war. Only one pair of Gold Star plates may be issued (625 ILCS 5/3-806.4).

Illinois National Guard license plates

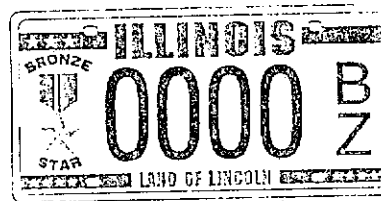
Illinois National Guard license plates are available for members, former members or surviving spouses of the Illinois National Guard. (625 ILCS 5/3-621).

Korean War Veteran license plates

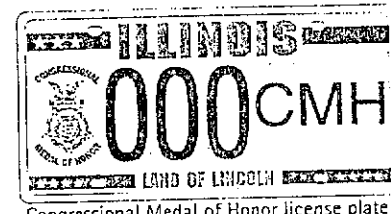
Korean War Veteran license plates are available to any Illinois resident who served in the U.S. Armed Forces between June 27, 1950, and July 27, 1954, within the territorial limits of Korea or waters immediately adjacent to, or who has been issued the Korean War Service medal (625 ILCS 5/3-626).



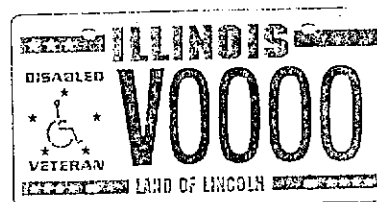
Armed Forces Reserves license plate



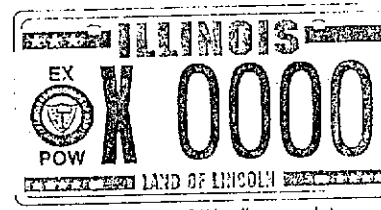
Bronze Star license plate



Congressional Medal of Honor license plate



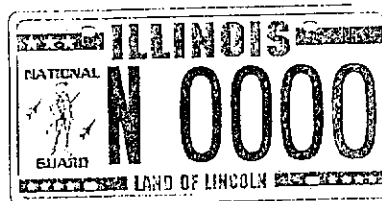
Disabled Veteran license plate



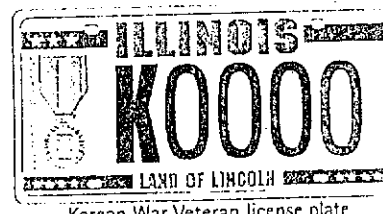
Ex Prisoner of War license plate



Gold Star license plate



Illinois National Guard license plate



Korean War Veteran license plate

Pearl Harbor Survivor license plates

Pearl Harbor Survivor license plates are available to any Illinois resident who served at Pearl Harbor on Dec. 7, 1941, as a member of the U.S. Armed Forces. The widowed spouse of a Pearl Harbor survivor is eligible, provided the widowed spouse was married to the Pearl Harbor survivor at the time of death and single at the time of application (625 ILCS 5/3-625).

POW/MIA license plates

POW/MIA license plates honor Illinois residents who were prisoners of war or missing in action while a member of the U.S. Armed Forces.

Purple Heart license plates

Purple Heart license plates are available to recipients of the military's Purple Heart medal (625 ILCS 5/3-623).

Retired Armed Forces license plates

Retired Armed Forces license plates are available to any retired member of the U.S. Armed Forces who resides in Illinois (625 ILCS 5/3-624).

Silver Star license plates

Silver Star license plates are available for recipients of the military's Silver Star medal (625 ILCS 5/3-642).

United States Marine Corps license plates

U.S. Marine Corps license plates are available to any current or previous member of the U.S. Marine Corps.

Universal Veteran license plates

Universal Veteran license plates are issued to any Illinois resident who has served in the U.S. Armed Forces. Branch of service and/or theater of action decals are available through the Veterans of Foreign Wars, Adjutant-Quarter-Master or the American Legion, Department of the Adjutant. (625 ILCS 5/3-638)

Vietnam Veteran license plates

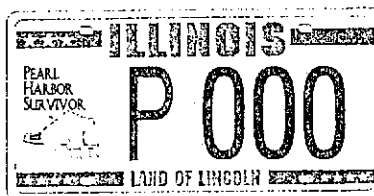
Vietnam Veteran license plates are available to any Illinois resident who served in the Vietnam conflict. (625 ILCS 5/3-645)

West Point Bicentennial license plates

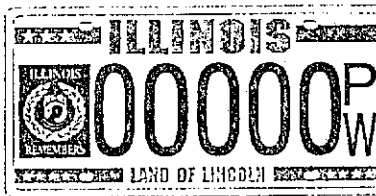
West Point Bicentennial license plates are available to any Illinois resident. The plate commemorates the 200th anniversary of the founding of West Point Military Academy in New York (625 ILCS 5/3-649).

World War II Veteran license plates

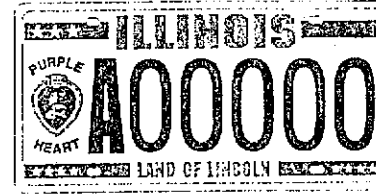
World War II Veteran license plates are available to any Illinois resident who served in the U.S. Armed Forces during World War II.



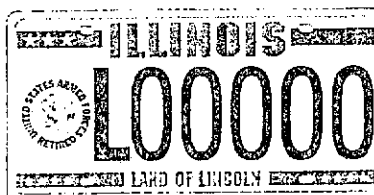
Pearl Harbor Survivor license plate



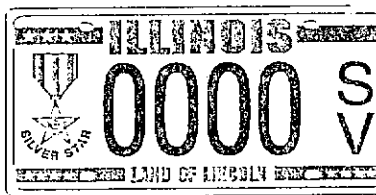
POW/MIA license plate



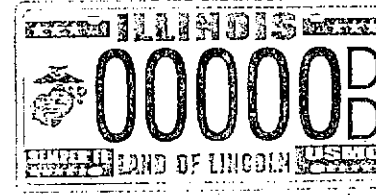
Purple Heart license plate



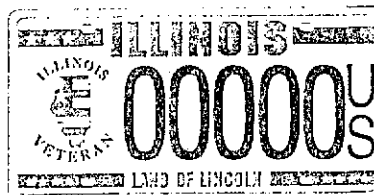
Retired Armed Forces license plate



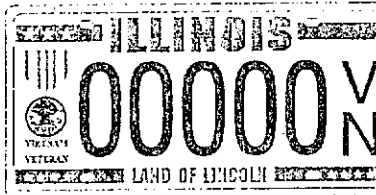
Silver Star license plate



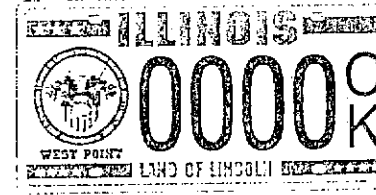
United States Marine Corps license plate



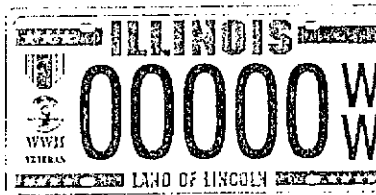
Universal Veteran license plate



Vietnam Veteran license plate



West Point Bicentennial license plate



World War II license plate

Sporting Series license plates**Sporting Series Bass license plates**

Sporting Series Bass license plates are available to any Illinois resident who wishes to display his/her sporting allegiance to the large mouth bass (625 ILCS 5/3-631).

Sporting Series Deer license plates

Sporting Series Deer license plates are available to any Illinois resident who wishes to display his/her sporting allegiance to the white tail deer (625 ILCS 5/3-631).

Sporting Series Duck license plates

Sporting Series Duck license plates are available to any Illinois resident who wishes to display his/her sporting allegiance to the duck (625 ILCS 5/3-631).

Sporting Series Goose license plates

Sporting Series Goose license plates are available to any Illinois resident who wishes to display his/her sporting allegiance to the goose (625 ILCS 5/3-631).

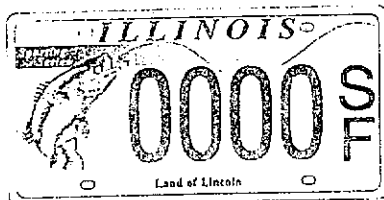
Sporting Series Pheasant license plates

Sporting Series Pheasant license plates are available to any Illinois resident who wishes to display his/her sporting allegiance to the pheasant (625 ILCS 5/3-631).

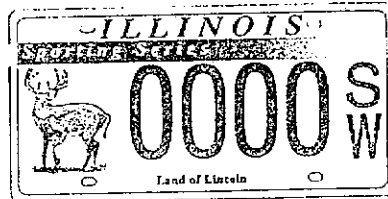
Sporting Series Turkey license plates

Sporting Series Turkey license plates are available to any Illinois resident who wishes to display his/her sporting allegiance to the turkey (625 ILCS 5/3-631).

NOTE: Environmental, Wildlife Prairie Park, Firefighters Memorial and Sporting Series license plates may also be registered to recreational vehicles and recreational trailers.



Sporting Series Bass license plate



Sporting Series Deer license plate



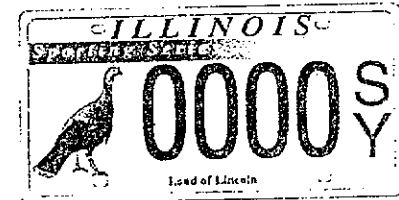
Sporting Series Duck license plate



Sporting Series Goose license plate



Sporting Series Pheasant license plate



Sporting Series Turkey license plate

PERSONS WITH DISABILITIES LICENSE PLATES

Persons with Disabilities license plates are available to those who have qualifying disabilities who have submitted a physician's certification form verifying disability. These plates are available for passenger vehicles, B-trucks and vans weighing 8,000 pounds or less (625 ILCS 5/3-616). Refer to page 32 for Persons with Disabilities Parking Placards. Vanity and Personalized Persons with Disabilities license plates are available.



Persons with Disabilities license plate



Persons with Disabilities license plate (vanity)



Persons with Disabilities license plate (personalized)

Exhibit

B



JESSE WHITE
SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE

Vehicle Services Department

501 So. 2nd St., Room 312
Springfield, Illinois 62756

New Plate Categories
(Fact Sheet)

1. Legislation must be introduced (by a legislator, either in the Senate or the House), passed by both chambers, and signed into law by the Governor. The Secretary can not arbitrarily begin issuing a new plate category.
2. Once the plate is authorized by law the Vehicle Services Department begins accepting commitment forms containing names & addresses of people who will be applying for the plate when and if it becomes available. No money or applications are accepted at this time, simply names, addresses, daytime telephone numbers and current license plate numbers. Please note: Any promotional materials are the sole responsibility of the sponsoring organization.
3. As the number of requests approaches the 850 level (somewhere between 750 & 850 depending on the amount of time elapsed from the inception of the legislation to the current date) our Communications Department works with someone representing the special interest group on a design of the plate.
4. A sample plate, designed as agreed to by the group and the Secretary of State, with the approval of law enforcement, is produced and signed off by all the aforementioned parties.
5. If the 850 minimum is now a reality an initial production order is placed.
6. Notification and applications are sent to all those that had submitted commitment forms requesting the plate when it became available.
7. Plates are issued as the applications and money are received.
8. Additional fees are deposited in the special fund created by the legislation.
9. Once annually the funds, subject to appropriation by the legislature, are forwarded to the organization by the Comptroller.

EXHIBIT

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